

Message Text

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EUR/CE FOR SUSAN KLINGAMAN

E.O. 11652: N/A

TAGS: CFED, SZ

SUBJECT: PROGRESS SETTLEMENT

REF: BERN 1710, KEMPE-BOROWSKI TELCON

1. WHAT FOLLOWS IS TUDER'S PROPOSAL FOR A NEW TEXT OF ARTICLE VIII OF THE CONSENT AND UNDERTAKING AND FOR AN AMENDMENT TO SECTION XVII OF THE DECREE OF THE BANKING COMMISSION. THE DEPARTMENT OF FINANCE HAS NO OBJECTION TO THESE PROPOSALS. THE SWISS FEDERAL BANKING COMMISSION HAS NOT YET SEEN THEM BUT IS EXPECTED TO APPROVE. WE WILL CONFIRM THIS APPROVAL, AS WELL AS THAT OF THE DEPARTMENT OF INTERIOR, BY TELEPHONE AND TELEGRAM WHEN RECEIVED.

2. BEGIN QUOTE. REPLACE EXISTING VIII A BY FOLLOWING:
THE EFFECTIVENESS OF THIS CONSENT AND UNDERTAKING IS SUBJECT TO:

A. THE ISSUANCE BY THE US DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OF A DECREE, OR DECREES AS MAY BE NECESSARY PROVIDING THAT:

(1) THE COMMISSIONER OF PROGRESS FOUNDATION, DR. MARCEL STUDER, AND THE LEGAL GUARDIAN OF MONDIAL COMMERCIAL LIMITED, BEING ALSO THE TRUSTEE OF FRIENDS OF AIER FELLOWSHIP FOUNDATION AND FURTHER BEING ALSO MEMBER OF THE BOARD OF WORLD ECONOMIC RESEARCH TRUST, REG, MR. OSWALD BUEHLER, AND DR. H.U. STUCKI, MEMBER OF THE BOARD OF MONTE

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SOLE SA, TO WHICH HE WAS APPOINTED BY THE SHAREHOLDERS

ASSEMBLY UPON INSTRUCTION OF THE COMMISSIONER, WILL BE NOT
LIABLE TO ANY US INVESTOR SOLELY BY VIRTUE OF ANY ACTION TAKEN
UNDER THIS DECREE, WHERE SUCH ACTION HAS BEEN APPROVED BY
THE SWISS BANK COMMISSION AND THE U.S. COURT; AND
THE U.S. COURT WILL TAKE ACTION AS IT DEEMS APPROPRIATE
PREVENTING THESE PERSONS FROM BEING LIABLE BY VIRTUE OF SUCH
ACTION;

(2) POTENTIAL DISPUTES BETWEEN U.S. INVESTORS AND ANY ENTITY
OR PERSON OF THE PROGRESS GROUP BEYOND (1) ABOVE SHALL BE
BROUGHT BEFORE SWISS, RESPECTIVELY LIECHTENSTEIN COURTS
EXCLUSIVELY AND SHALL BE SUBJECT TO SWISS OR LIECHTENSTEIN
LAW EXCLUSIVELY; AND THE U.S. COURT WILL TAKE SUCH ACTION
AS IT DEEMS APPROPRIATE PREVENTING ANY PERSON OR ENTITY OF THE
PROGRESS GROUP FROM BEING SUMMONED BEFORE U.S. COURTS;

(3) THE PROGRESS GROUP HAS THE POSSIBILITY TO SUBMIT FOR
APPROVAL TO THE SWISS BANKING COMMISSION ALTERNATIVE
PROPOSALS FOR INVESTMENT OPPORTUNITIES OF THE INVESTORS
SATISFACTORY TO THE SEC.

II. AMENDMENT OF SECT XVII OF DECREE OF SWISS BANKING
COMMISSION:

OMIT QUOTE IN AN INDIVIDUAL ACCOUNT UNQUOTE.

THE ABOVE PROPOSALS FOR AMENDMENT ARE SUBJECT TO THE AP-
PROVAL OF THE DEPARTMENT OF INTERIOR. END QUOTE.

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